

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DAVID E FETTERMAN,

No C 06-2023 VRW

Plaintiff,

ORDER

v

EXPERIAN INFORMATION SOLUTIONS,  
INC, EQUIFAX, INC, and BANK OF  
AMERICA, NA,

Defendants.

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Defendant Bank of America filed a motion for summary judgment on April 5, 2007. Doc #45. Per the court's order of March 8, 2007 (Doc #41), this motion was to be heard on May 10, 2007. The court later continued the motion hearing to June 21, 2007. Doc #51. Plaintiff failed to file an opposition on or before June 1, 2007 as required by Civ Local Rule 7-3(a).

Accordingly, the court vacated the June 21, 2007 hearing and ordered plaintiff to show cause why defendant Bank of America's motion should not be treated as unopposed. Doc #58.

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1 On June 15, 2007, plaintiff filed a response to the order  
2 to show cause. Doc #59. Plaintiff asserts:

3 Plaintiff has taken extensive notes and was fully  
4 prepared to present his response to the Court at the  
5 hearing on June 21, in the form of oral argument. He did  
6 not know that his response needed to be submitted in  
7 writing. Since receiving the Court's Order to Show  
8 Cause, he has tried to organize his notes into a  
9 meaningful written response, but would ask an additional  
10 two weeks to complete the process, as the issues that  
11 require a response are numerous.

12 Id at 2.

13 While the court has reservations about allowing plaintiff  
14 to file an opposition after such a long and otherwise unexplained  
15 delay, the court cannot conclude that plaintiff's failure properly  
16 to file an opposition warrants the harsh sanction of dismissal as  
17 to defendant Bank of America.

18 Accordingly, if plaintiff desires to prosecute this  
19 action against Bank of America, the court DIRECTS plaintiff to file  
20 an opposition to Bank of America's motion for summary judgment on  
21 or before July 6, 2007. Bank of America may file a reply on or  
22 before July 20, 2007. The parties shall appear for a hearing on  
23 Bank of America's motion on August 16, 2007 at 2:00 pm. The  
24 pretrial conference, currently scheduled for July 24, 2007, is  
25 hereby VACATED and continued to October 2, 2007 at 9:00 am.

26 Plaintiff should be aware that although he is  
27 representing himself in this action, he is nevertheless obligated  
28 to follow the same rules as represented parties. See King v  
Atiyeh, 814 F2d 565, 567 (9th Cir 1987). Lack of awareness of the  
applicable rules and procedures is no excuse for failure to comply  
with those rules. See Swimmer v IRS, 811 F2d 1343, 1344 (9th Cir  
1987). The Handbook For Litigants Without A Lawyer, published by

1 the court, contains detailed instructions on opposing a motion for  
2 summary judgment. Plaintiff is directed to this resource, which he  
3 should have already obtained from the clerk pursuant to the court's  
4 standing order.

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6 IT IS SO ORDERED.

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10 VAUGHN R WALKER

11 United States District Chief Judge  
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